

Adopted	Rejected
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## COMMITTEE REPORT

YES:	11
NO:	1

### MR. SPEAKER:

*Your Committee on* **Courts and Criminal Code**, to which was referred Senate Bill 329, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1           Page 14, between lines 17 and 18, begin a new paragraph and insert:
- 2           "SECTION 8. IC 29-3-2-1 IS AMENDED TO READ AS
- 3           FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This article
- 4           applies to the following:
- 5               (1) The business affairs, physical person, and property of every
- 6               incapacitated person and minor residing in Indiana.
- 7               (2) Property located in Indiana of every incapacitated person and
- 8               minor residing outside Indiana.
- 9               (3) Property of every incapacitated person or minor, regardless of
- 10            where the property is located, coming into the control of a
- 11            fiduciary who is subject to the laws of Indiana.
- 12           (b) Except as provided in subsections (c) through (e), the court has
- 13           exclusive original jurisdiction over all matters concerning the
- 14           following:
- 15               (1) Guardians.
- 16               (2) Protective proceedings under IC 29-3-4.

(c) A juvenile court has exclusive original jurisdiction over matters relating to the following:

(1) Minors described in IC 31-30-1-1.

(2) Matters related to guardians of the person and guardianships of the person described in IC 31-30-1-1(10).

(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

(1) IC 31-14-10;

(2) IC 31-17-2-1; or

(3) **IC 31-21-5 (or IC 31-17-3-3 before its repeal);**

have original and continuing jurisdiction over custody matters relating to minors.

(e) A mental health division of a superior court under IC 33-33-49 has jurisdiction concurrent with the court in mental health proceedings under IC 12-26 relating to guardianship and protective orders.

(f) Jurisdiction under this section is not dependent on issuance or service of summons.

SECTION 9. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Except as otherwise provided, the definitions in this article do not apply to the following:

(1) IC 31-11-3.

(2) **IC 31-21 (or IC 31-17-3 before its repeal).**

(3) IC 31-18.

(4) IC 31-19-29.

(5) IC 31-37-23.

SECTION 10. IC 31-9-2-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.3. "Abandoned", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-2."**

Page 14, between lines 21 and 22, begin a new paragraph and insert: "SECTION 12. IC 31-9-2-13, AS AMENDED BY P.L.145-2006, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

- 1           (2) Children born or adopted during the marriage of the parties.
- 2           (b) "Child", for purposes of the Uniform Interstate Family Support
- 3 Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.
- 4           (c) "Child", for purposes of IC 31-19-5, includes an unborn child.
- 5           (d) "Child", for purposes of the juvenile law, means:
- 6               (1) a person who is less than eighteen (18) years of age;
- 7               (2) a person:
- 8                   (A) who is eighteen (18), nineteen (19), or twenty (20) years
- 9                   of age; and
- 10                  (B) who either:
- 11                      (i) is charged with a delinquent act committed before the
- 12                      person's eighteenth birthday; or
- 13                      (ii) has been adjudicated a child in need of services before
- 14                      the person's eighteenth birthday; or
- 15               (3) a person:
- 16                   (A) who is alleged to have committed an act that would have
- 17                   been murder if committed by an adult; and
- 18                   (B) who was less than eighteen (18) years of age at the time of
- 19                   the alleged act.
- 20           (e) "Child", for purposes of the Interstate Compact on Juveniles
- 21 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
- 22           (f) "Child", for purposes of IC 31-16-12.5, means an individual to
- 23 whom child support is owed under:
- 24               (1) a child support order issued under IC 31-14-10 or IC 31-16-6;
- 25               or
- 26               (2) any other child support order that is enforceable under
- 27               IC 31-16-12.5.
- 28           (g) "Child", for purposes of IC 31-33-24, has the meaning set forth
- 29 in IC 31-33-24-1.
- 30           (h) "Child", for purposes of IC 31-33-25, has the meaning set forth
- 31 in IC 31-33-25-1.
- 32           (i) "Child", for purposes of IC 31-27, means an individual who is
- 33 less than eighteen (18) years of age.
- 34           (j) **"Child", for purposes of the Uniform Child Custody**
- 35 **Jurisdiction Act under IC 31-21, has the meaning set forth in**
- 36 **IC 31-21-2-3.**
- 37           SECTION 13. IC 31-9-2-16.8 IS ADDED TO THE INDIANA
- 38 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]: **Sec. 16.8. "Child custody determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-4.**

SECTION 14. IC 31-9-2-16.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16.9. "Child custody proceeding", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-5.**

SECTION 15. IC 31-9-2-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20.5. "Commencement", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-6.**

SECTION 16. IC 31-9-2-27, AS AMENDED BY P.L.145-2006, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) "Court", for purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit, superior, or other courts of Indiana upon which jurisdiction to enter dissolution decrees has been or may be conferred.

(b) "Court", for purposes of IC 31-16-15, refers to the court having jurisdiction over child support orders.

(c) "Court", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-3.

(d) "Court", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(e) "Court", for purposes of IC 31-27, means a circuit or superior court.

**(f) "Court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-7.**

SECTION 17. IC 31-9-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 53. (a) "Home state", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ **Act** under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-8.**

(b) "Home state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

1 SECTION 18. IC 31-9-2-59.5 IS ADDED TO THE INDIANA  
 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2007]: **Sec. 59.5. "Initial determination", for**  
 4 **purposes of the Uniform Child Custody Jurisdiction Act under**  
 5 **IC 31-21, has the meaning set forth in IC 31-21-2-9.**

6 SECTION 19. IC 31-9-2-64.5 IS ADDED TO THE INDIANA  
 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2007]: **Sec. 64.5. "Issuing court", for**  
 9 **purposes of the Uniform Child Custody Jurisdiction Act under**  
 10 **IC 31-21, has the meaning set forth in IC 31-21-2-10.**

11 SECTION 20. IC 31-9-2-65 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 65. (a) "Issuing state",  
 13 for purposes of the Uniform Interstate Family Support Act under  
 14 IC 31-18, has the meaning set forth in IC 31-18-1-11.

15 (b) "Issuing state", for purposes of the Uniform Child Custody  
 16 Jurisdiction Act under IC 31-21, has the meaning set forth in  
 17 IC 31-21-2-11.

18 SECTION 21. IC 31-9-2-80.8 IS ADDED TO THE INDIANA  
 19 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2007]: **Sec. 80.8. "Modification", for**  
 21 **purposes of the Uniform Child Custody Jurisdiction Act under**  
 22 **IC 31-21, has the meaning set forth in IC 31-21-2-12."**

23 Page 14, between lines 28 and 29, begin a new paragraph and insert:  
 24 "SECTION 23. IC 31-9-2-89, AS AMENDED BY P.L.145-2006,  
 25 SECTION 204, IS AMENDED TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2007]: Sec. 89. (a) "Person", for purposes of the  
 27 juvenile law, means:

- 28 (1) a human being;
- 29 (2) a corporation;
- 30 (3) a limited liability company;
- 31 (4) a partnership;
- 32 (5) an unincorporated association; or
- 33 (6) a governmental entity.

34 (b) "Person", for purposes of section 44.5 of this chapter, means an  
 35 adult or a minor.

36 (c) "Person", for purposes of IC 31-27, means an individual who is  
 37 at least twenty-one (21) years of age, a corporation, a partnership, a  
 38 voluntary association, or other entity.

1        **(d) "Person", for purposes of the Uniform Child Custody**  
 2        **Jurisdiction Act under IC 31-21, has the meaning set forth in**  
 3        **IC 31-21-2-13.**

4        SECTION 24. IC 31-9-2-90 IS AMENDED TO READ AS  
 5        FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 90. "Person acting as  
 6        a parent", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~  
 7        Act under ~~IC 31-17-3~~, IC 31-21, has the meaning set forth in  
 8        ~~IC 31-17-3-2~~. **IC 31-21-2-14.**

9        SECTION 25. IC 31-9-2-91 IS AMENDED TO READ AS  
 10       FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 91. **(a)** "Petitioner" or  
 11       "obligee", for purposes of the Uniform Interstate Family Support Act  
 12       under IC 31-18, has the meaning set forth in IC 31-18-1-14.

13       **(b) "Petitioner", for purposes of the Uniform Child Custody**  
 14       **Jurisdiction Act under IC 31-21, has the meaning set forth in**  
 15       **IC 31-21-2-15.**

16       SECTION 26. IC 31-9-2-92 IS AMENDED TO READ AS  
 17       FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 92. "Physical custody",  
 18       for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under  
 19       ~~IC 31-17-3~~, IC 31-21, has the meaning set forth in ~~IC 31-17-3-2~~.  
 20       **IC 31-21-2-16.**

21       SECTION 27. IC 31-9-2-102.7 IS ADDED TO THE INDIANA  
 22       CODE AS A NEW SECTION TO READ AS FOLLOWS  
 23       [EFFECTIVE JULY 1, 2007]: **Sec. 102.7. "Record", for purposes of**  
 24       **the Uniform Child Custody Jurisdiction Act under IC 31-21, has**  
 25       **the meaning set forth in IC 31-21-2-17.**

26       SECTION 28. IC 31-9-2-110 IS AMENDED TO READ AS  
 27       FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 110. **(a)** "Respondent"  
 28       or "obligor", for purposes of the Uniform Interstate Family Support Act  
 29       under IC 31-18, has the meaning set forth in IC 31-18-1-15.

30       **(b) "Respondent", for purposes of the Uniform Child Custody**  
 31       **Jurisdiction Act under IC 31-21, has the meaning set forth in**  
 32       **IC 31-21-2-18.**

33       SECTION 29. IC 31-9-2-119 IS AMENDED TO READ AS  
 34       FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 119. (a) "State", for  
 35       purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under  
 36       ~~IC 31-17-3~~, IC 31-21, has the meaning set forth in ~~IC 31-17-3-2~~.  
 37       **IC 31-21-2-19.**

38       (b) "State", for purposes of the Uniform Interstate Family Support

1 Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

2 (c) "State", for purposes of the Interstate Compact on Adoption  
3 Assistance under IC 31-19-29, has the meaning set forth in  
4 IC 31-19-29-2.

5 (d) "State", for purposes of the Interstate Compact on Juveniles  
6 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1."

7 Page 15, between lines 1 and 2, begin a new paragraph and insert:

8 "SECTION 32. IC 31-9-2-130.5 IS ADDED TO THE INDIANA  
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2007]: **Sec. 130.5. "Tribe", for purposes of**  
11 **the Uniform Child Custody Jurisdiction Act under IC 31-21, has**  
12 **the meaning set forth in IC 31-21-2-20.**

13 SECTION 33. IC 31-9-2-135, AS ADDED BY P.L.145-2006,  
14 SECTION 218, IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2007]: Sec. 135. (a) "Warrant", for purposes of  
16 IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1,  
17 IC 31-28-2, and IC 31-28-3, means an instrument that is:

- 18 (1) the equivalent of a money payment; and  
19 (2) immediately convertible into cash by the payee for the full  
20 face amount of the instrument.

21 (b) **"Warrant", for purposes of the Uniform Child Custody**  
22 **Jurisdiction Act under IC 31-21, has the meaning set forth in**  
23 **IC 31-21-2-21."**

24 Page 17, line 26, delete "finds by clear and convincing evidence"  
25 and insert **"issues a written finding"**.

26 Page 24, line 2, delete ";" and insert ".".

27 Page 33, between lines 9 and 10, begin a new paragraph and insert:

28 "SECTION 61. IC 31-17-2-1 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Jurisdiction of a  
30 child custody proceeding under:

- 31 (1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or  
32 (2) **IC 31-21 (or IC 31-17-3 before its repeal);**  
33 shall be determined under **IC 31-21 (or IC 31-17-3 before its repeal).**

34 SECTION 62. IC 31-17-5-10 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. If the marriage of  
36 the child's parents has been dissolved in another state, the child's  
37 maternal or paternal grandparent may seek visitation rights if:

- 38 (1) the custody decree entered in the action for dissolution of

marriage does not bind the grandparent under **IC 31-21-3-1 (or IC 31-17-3-12 before its repeal)**; and  
 (2) an Indiana court would have jurisdiction under **IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3 (or IC 31-17-3-14 before its repeal)** to grant visitation rights to the grandparent in a modification decree.

SECTION 63. IC 31-21 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**ARTICLE 21. UNIFORM CHILD CUSTODY JURISDICTION ACT**

**Chapter 1. Applicability**

**Sec. 1. This article does not apply to:**

- (1) an adoption proceeding; or
- (2) a proceeding pertaining to the authorization of emergency medical care for a child.

**Sec. 2. (a) A child custody proceeding pertaining to an Indian child, as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), is not subject to this article to the extent that it is governed by the Indian Child Welfare Act.**

**(b) An Indiana court shall treat a tribe as if the tribe were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.**

**(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this article must be recognized and enforced under IC 31-21-6.**

**Sec. 3. (a) An Indiana court shall treat a foreign country as if the foreign country were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.**

**(b) Except as otherwise provided in subsection (c), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standard of this article must be recognized and enforced under IC 31-21-6.**

**(c) An Indiana court need not apply this article if the child custody law of a foreign country violates the fundamental principles of human rights.**



1           **Chapter 2. Definitions**

2           **Sec. 1. The definitions in this chapter apply throughout this**  
 3 **article.**

4           **Sec. 2. "Abandoned" means left without provision for**  
 5 **reasonable and necessary care or supervision.**

6           **Sec. 3. "Child" means a person who is less than eighteen (18)**  
 7 **years of age.**

8           **Sec. 4. (a) "Child custody determination" means a judgment,**  
 9 **decree, or other court order providing for:**

- 10               (1) legal custody;
- 11               (2) physical custody; or
- 12               (3) visitation;

13 **with respect to a child.**

14           **(b) The term does not include an order relating to child support**  
 15 **or other monetary obligation of a person.**

16           **Sec. 5. (a) "Child custody proceeding" means a proceeding in**  
 17 **which legal custody, physical custody, or visitation with respect to**  
 18 **a child is an issue. The term includes a proceeding for:**

- 19               (1) dissolution of marriage or legal separation;
- 20               (2) child abuse or neglect;
- 21               (3) guardianship;
- 22               (4) paternity;
- 23               (5) termination of parental rights; and
- 24               (6) protection from domestic violence;

25 **in which the issue of child custody or visitation may appear.**

26           **(b) The term does not include a proceeding involving juvenile**  
 27 **delinquency, contractual emancipation, or enforcement of child**  
 28 **custody under IC 31-21-6.**

29           **Sec. 6. "Commencement" means the filing of the first pleading**  
 30 **in a proceeding.**

31           **Sec. 7. "Court" means an entity authorized by state law to**  
 32 **establish, enforce, or modify a child custody determination.**

33           **Sec. 8. "Home state" means the state in which a child lived with:**

- 34               (1) a parent; or
- 35               (2) a person acting as a parent;

36 **for at least six (6) consecutive months immediately before the**  
 37 **commencement of a child custody proceeding. In the case of a child**  
 38 **less than six (6) months of age, the term means the state in which**

1 the child lived since birth with a parent or person acting as a  
 2 parent. A period of temporary absence of the parent or person  
 3 acting as a parent is part of the period.

4 Sec. 9. "Initial determination" means the first child custody  
 5 determination concerning a child.

6 Sec. 10. "Issuing court" means the court that makes a child  
 7 custody determination for which enforcement is sought under this  
 8 article.

9 Sec. 11. "Issuing state" means the state in which a child custody  
 10 determination is made.

11 Sec. 12. "Modification" means a child custody determination  
 12 that changes, replaces, supersedes, or is otherwise made after a  
 13 previous determination concerning the same child, regardless of  
 14 whether the determination is made by the court that made the  
 15 previous determination.

16 Sec. 13. "Person" means an individual, a corporation, a business  
 17 trust, an estate, a trust, a partnership, a limited liability company,  
 18 an association, a joint venture, a government, a governmental  
 19 subdivision, an agency or instrumentality, a public corporation, or  
 20 any other legal or commercial entity.

21 Sec. 14. "Person acting as a parent" means a person, other than  
 22 a parent, who:

23 (1) has physical custody of the child or has had physical  
 24 custody for a period of at least six (6) consecutive months,  
 25 including a temporary absence, within one (1) year  
 26 immediately before the commencement of a child custody  
 27 proceeding; and

28 (2) has been awarded legal custody by a court or claims a  
 29 right to legal custody under Indiana law.

30 Sec. 15. "Petitioner" means a person who seeks enforcement of:

31 (1) an order for return of a child under the Hague Convention  
 32 on the Civil Aspects of International Child Abduction; or

33 (2) a child custody determination.

34 Sec. 16. "Physical custody" means the physical care and  
 35 supervision of a child.

36 Sec. 17. "Record" means information that is:

37 (1) inscribed on a tangible medium; or

38 (2) stored in an electronic or other medium;

1 and that is retrievable in a perceivable form.

2 Sec. 18. "Respondent" means a person against whom a  
3 proceeding has been commenced for enforcement of:

- 4 (1) an order for return of a child under the Hague Convention  
5 on the Civil Aspects of International Child Abduction; or  
6 (2) a child custody determination.

7 Sec. 19. "State" means a state of the United States, the District  
8 of Columbia, Puerto Rico, the United States Virgin Islands, or a  
9 territory or an insular possession subject to the jurisdiction of the  
10 United States.

11 Sec. 20. "Tribe" means an Indian tribe or band or Alaskan  
12 Native village that is:

- 13 (1) recognized by federal law; or  
14 (2) formally acknowledged by a state.

15 Sec. 21. "Warrant" means an order issued by a court  
16 authorizing law enforcement officers to take physical custody of a  
17 child.

### 18 Chapter 3. Procedural Considerations

19 Sec. 1. A child custody determination made by an Indiana court  
20 that has jurisdiction under this article binds each person who has:

- 21 (1) been served with notice in accordance with Indiana law;  
22 (2) been notified in accordance with section 3 of this chapter;  
23 or  
24 (3) submitted to the jurisdiction of the court;

25 and who has been given an opportunity to be heard. A child  
26 custody determination described in this section is conclusive as to  
27 the decided issues of law and fact except to the extent the  
28 determination is modified.

29 Sec. 2. If a question of existence or exercise of jurisdiction under  
30 this article is raised in a child custody proceeding, the question, on  
31 a request of a party, must be given priority on the court's calendar  
32 and handled expeditiously.

33 Sec. 3. (a) Notice required for the exercise of jurisdiction when  
34 a person is outside Indiana may be given in a manner prescribed  
35 by:

- 36 (1) Indiana law for service of process; or  
37 (2) the law of the state in which the service is made.

38 Notice must be given in a manner reasonably calculated to give

1 actual notice but may be by publication if other means are not  
2 effective.

3 (b) Proof of service may be made in the manner prescribed by:

4 (1) Indiana law; or

5 (2) the law of the state in which the service is made.

6 (c) Notice is not required for the exercise of jurisdiction with  
7 respect to a person who submits to the jurisdiction of the court.

8 Sec. 4. A party to a child custody proceeding, including a  
9 modification proceeding, or a petitioner or respondent in a  
10 proceeding to enforce or register a child custody determination, is  
11 not subject to personal jurisdiction in Indiana for another  
12 proceeding or purpose solely by reason of having participated, or  
13 of having been physically present for the purpose of participating,  
14 in the proceeding.

15 Sec. 5. A person who is subject to personal jurisdiction in  
16 Indiana on a basis other than physical presence is not immune  
17 from service of process in Indiana. A person present in Indiana  
18 who is subject to the jurisdiction of another state is not immune  
19 from service of process allowable under the laws of that state.

20 Sec. 6. The immunity granted by section 4 of this chapter does  
21 not extend to civil litigation based on acts unrelated to the  
22 participation in a proceeding under this article committed by an  
23 individual while present in Indiana.

#### 24 Chapter 4. Communication and Cooperation Between Courts

25 Sec. 1. An Indiana court may communicate with a court in  
26 another state concerning a proceeding arising under this article.

27 Sec. 2. The court may allow the parties to participate in the  
28 communication. If the parties are not able to participate in the  
29 communication, the parties must be given the opportunity to  
30 present facts and legal arguments before a decision on jurisdiction  
31 is made.

32 Sec. 3. Communication between courts regarding:

33 (1) schedules;

34 (2) calendars;

35 (3) court records; and

36 (4) similar matters;

37 may occur without informing the parties. A record need not be  
38 made of the communication.

1       **Sec. 4. A record must be made of a communication under**  
2       **sections 1 and 2 of this chapter. The parties must be:**

3               **(1) promptly informed of the communication; and**

4               **(2) granted access to the record.**

5       **Sec. 5. In addition to other procedures available to a party, a**  
6       **party to a child custody proceeding may offer testimony of**  
7       **witnesses who are located in another state, including testimony of**  
8       **the parties and the child, by deposition or other means allowable**  
9       **in Indiana for testimony taken in another state. The court on its**  
10       **own motion may:**

11               **(1) order that the testimony of a person be taken in another**  
12               **state; and**

13               **(2) prescribe the manner in which and the terms on which the**  
14               **testimony is taken.**

15       **Sec. 6. An Indiana court may permit a person residing in**  
16       **another state to be deposed or to testify by:**

17               **(1) telephone;**

18               **(2) audiovisual means; or**

19               **(3) other electronic means;**

20       **before a designated court or another location in that state. An**  
21       **Indiana court shall cooperate with courts in other states in**  
22       **designating an appropriate location for the deposition or**  
23       **testimony.**

24       **Sec. 7. Documentary evidence transmitted from another state to**  
25       **an Indiana court by technological means that do not produce an**  
26       **original writing may not be excluded from evidence on an**  
27       **objection based on the means of transmission.**

28       **Sec. 8. An Indiana court may request the appropriate court of**  
29       **another state to do the following:**

30               **(1) Hold an evidentiary hearing.**

31               **(2) Order a person to produce or give evidence under the**  
32               **procedures of the other state.**

33               **(3) Order that an evaluation be made with respect to the**  
34               **custody of a child involved in a pending proceeding.**

35               **(4) Forward to the Indiana court:**

36                       **(A) a certified copy of the transcript of the record of the**  
37                       **hearing;**

38                       **(B) the evidence otherwise presented; and**

1 (C) an evaluation prepared in compliance with the request.

2 (5) Order:

3 (A) a party to a child custody proceeding; or

4 (B) any person having physical custody of the child;  
5 to appear in the proceeding with or without the child.

6 Sec. 9. On the request of a court of another state, an Indiana  
7 court may:

8 (1) hold a hearing; and

9 (2) enter an order described in section 8 of this chapter.

10 Sec. 10. Travel and other necessary and reasonable expenses  
11 incurred under sections 8 and 9 of this chapter may be assessed  
12 against the parties according to Indiana law.

13 Sec. 11. An Indiana court shall preserve the:

14 (1) pleadings;

15 (2) orders;

16 (3) decrees;

17 (4) records of hearings;

18 (5) evaluations; and

19 (6) other pertinent records;

20 with respect to a child custody proceeding until the child becomes  
21 eighteen (18) years of age. On appropriate request by a court or  
22 law enforcement official of another state, the Indiana court shall  
23 forward a certified copy of the records to the court of the other  
24 state.

## 25 Chapter 5. Jurisdiction

26 Sec. 1. (a) Except as otherwise provided in section 4 of this  
27 chapter, an Indiana court has jurisdiction to make an initial child  
28 custody determination only if one (1) of the following applies:

29 (1) Indiana is the home state of the child on the date of the  
30 commencement of the proceeding or was the home state of the  
31 child within six (6) months before the commencement of the  
32 proceeding, and the child is absent from Indiana but a parent  
33 or person acting as a parent continues to live in Indiana.

34 (2) A court of another state does not have jurisdiction under  
35 subdivision (1) or a court of the home state of the child has  
36 declined to exercise jurisdiction on the ground that Indiana is  
37 the more appropriate forum under section 8 or 9 of this  
38 chapter and:

- 1           (A) the child and the child's parents, or the child and at  
 2           least one (1) parent or person acting as a parent, have a  
 3           significant connection with Indiana other than mere  
 4           physical presence; and  
 5           (B) substantial evidence is available in Indiana concerning  
 6           the child's care, protection, training, and personal  
 7           relationships.
- 8           (3) All courts having jurisdiction under subdivision (1) or (2)  
 9           have declined to exercise jurisdiction on the ground that an  
 10          Indiana court is the more appropriate forum to determine the  
 11          custody of the child under section 8 or 9 of this chapter.
- 12          (4) No court of any other state would have jurisdiction under  
 13          the criteria specified in subdivision (1), (2), or (3).
- 14          (b) The jurisdictional requirements described in this section  
 15          provide the exclusive jurisdictional basis for making a child  
 16          custody determination by an Indiana court.
- 17          (c) Physical presence of, or personal jurisdiction over, a party  
 18          or a child is not necessary or sufficient to make a child custody  
 19          determination.
- 20          Sec. 2. (a) Except as otherwise provided in section 4 of this  
 21          chapter, an Indiana court that has made a child custody  
 22          determination consistent with section 1 or 3 of this chapter has  
 23          exclusive, continuing jurisdiction over the determination until:
- 24               (1) an Indiana court determines that:
- 25                   (A) neither:
- 26                       (i) the child;
- 27                       (ii) the child's parents; nor
- 28                       (iii) any person acting as a parent;
- 29                   has a significant connection with Indiana; and
- 30                   (B) substantial evidence is no longer available in Indiana  
 31                   concerning the child's care, protection, training, and  
 32                   personal relationships; or
- 33               (2) an Indiana court or a court of another state determines  
 34               that:
- 35                   (A) the child;
- 36                   (B) the child's parents; and
- 37                   (C) any person acting as a parent;
- 38               do not presently reside in Indiana.

1           **(b) An Indiana court that:**

2                 **(1) has made a child custody determination; and**

3                 **(2) does not have exclusive, continuing jurisdiction under this**  
4                 **section;**

5           **may modify the determination only if the Indiana court has**  
6           **jurisdiction to make an initial determination under section 1 of this**  
7           **chapter.**

8           **Sec. 3. Except as provided in section 4 of this chapter, an**  
9           **Indiana court may not modify a child custody determination made**  
10          **by a court of another state unless an Indiana court has jurisdiction**  
11          **to make an initial determination under section 1(a)(1) or 1(a)(2) of**  
12          **this chapter and:**

13                 **(1) the court of the other state determines that:**

14                         **(A) it no longer has exclusive, continuing jurisdiction**  
15                         **under section 2 of this chapter; or**

16                         **(B) an Indiana court would be a more convenient forum**  
17                         **under section 8 of this chapter; or**

18                 **(2) an Indiana court or a court of the other state determines**  
19                 **that:**

20                         **(A) the child;**

21                         **(B) the child's parents; and**

22                         **(C) any person acting as a parent;**

23                 **do not presently reside in the other state.**

24           **Sec. 4. (a) An Indiana court has temporary emergency**  
25          **jurisdiction if the child is present in Indiana and:**

26                 **(1) the child has been abandoned; or**

27                 **(2) it is necessary in an emergency to protect the child**  
28                 **because:**

29                         **(A) the child;**

30                         **(B) the child's sibling; or**

31                         **(C) the child's parent;**

32                 **is subjected to or threatened with mistreatment or abuse.**

33          **(b) If:**

34                 **(1) there is no previous child custody determination that is**  
35                 **entitled to be enforced under this article; and**

36                 **(2) a child custody proceeding has not been commenced in a**  
37                 **court of a state having jurisdiction under sections 1 through**  
38                 **3 of this chapter;**



1 a child custody determination made under this section remains in  
 2 effect until an order is obtained from a court of a state having  
 3 jurisdiction under sections 1 through 3 of this chapter.

4 (c) If a child custody proceeding has not been or is not  
 5 commenced in a court of a state having jurisdiction under sections  
 6 1 through 3 of this chapter, a child custody determination made  
 7 under this section becomes a final determination, and, if it so  
 8 provides, Indiana becomes the home state of the child.

9 (d) If:

10 (1) there is a previous child custody determination that is  
 11 entitled to be enforced under this article; or

12 (2) a child custody proceeding has been commenced in a court  
 13 of a state having jurisdiction under sections 1 through 3 of  
 14 this chapter;

15 an order issued by an Indiana court under this section must specify  
 16 in the order a period that the court considers adequate to allow the  
 17 person seeking an order to obtain an order from the state having  
 18 jurisdiction under sections 1 through 3 of this chapter.

19 (e) The order issued in Indiana remains in effect until an order  
 20 is obtained from the other state within the period specified or the  
 21 period expires.

22 (f) An Indiana court that has been asked to make a child custody  
 23 determination under this section, on being informed that:

24 (1) a child custody proceeding has been commenced in; or

25 (2) a child custody determination has been made by;

26 a court of a state having jurisdiction under sections 1 through 3 of  
 27 this chapter, shall immediately communicate with the other court.

28 (g) An Indiana court that is exercising jurisdiction under  
 29 sections 1 through 3 of this chapter, on being informed that:

30 (1) a child custody proceeding has been commenced in; or

31 (2) a child custody determination has been made by;

32 a court of another state under a statute similar to this section, shall  
 33 immediately communicate with the court of the other state to  
 34 resolve the emergency, protect the safety of the parties and the  
 35 child, and determine a period for the duration of the temporary  
 36 order.

37 Sec. 5. (a) Before a child custody determination is made under  
 38 this article, notice and an opportunity to be heard in accordance

with the standards of IC 31-21-3-3 must be given to the following persons:

(1) Persons entitled to notice under Indiana law as in child custody proceedings between residents of Indiana.

(2) A parent whose parental rights have not been previously terminated.

(3) Any person having physical custody of the child.

(b) This article does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this article are governed by Indiana law in the same manner as in child custody proceedings between Indiana residents.

Sec. 6. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this article, unless the proceeding:

(1) has been terminated; or

(2) is stayed by the court of the other state because an Indiana court is a more convenient forum under section 8 of this chapter.

(b) Except as otherwise provided in section 4 of this chapter, an Indiana court, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties under sections 10 through 13 of this chapter. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this article, the Indiana court shall:

(1) stay its proceeding; and

(2) communicate with the court of the other state.

If the court of the state having jurisdiction substantially in accordance with this article does not determine that the Indiana court is a more appropriate forum, the Indiana court shall dismiss the proceeding.

1       **Sec. 7. In a proceeding to modify a child custody determination,**  
 2       **an Indiana court shall determine whether a proceeding to enforce**  
 3       **the determination has been commenced in another state. If a**  
 4       **proceeding to enforce a child custody determination has been**  
 5       **commenced in another state, the Indiana court may:**

- 6           (1) stay the proceeding for modification pending the entry of  
 7           an order of a court of the other state enforcing, staying,  
 8           denying, or dismissing the proceeding for enforcement;  
 9           (2) enjoin the parties from continuing with the proceeding for  
 10          enforcement; or  
 11          (3) proceed with the modification under conditions the  
 12          Indiana court considers appropriate.

13       **Sec. 8. (a) An Indiana court that has jurisdiction under this**  
 14       **article to make a child custody determination may decline to**  
 15       **exercise its jurisdiction at any time if the Indiana court determines**  
 16       **that:**

- 17           (1) the Indiana court is an inconvenient forum under the  
 18           circumstances; and  
 19           (2) a court of another state is a more appropriate forum.

20       **The issue of inconvenient forum may be raised on motion of a**  
 21       **party, the court's own motion, or request of another court.**

22       **(b) Before determining whether an Indiana court is an**  
 23       **inconvenient forum, the Indiana court shall consider whether it is**  
 24       **appropriate for a court of another state to exercise jurisdiction.**  
 25       **For this purpose, the Indiana court shall allow the parties to**  
 26       **submit information and shall consider the relevant factors,**  
 27       **including the following:**

- 28           (1) Whether domestic violence has occurred and is likely to  
 29           continue in the future and which state is best able to protect  
 30           the parties and the child.  
 31           (2) The length of time the child has resided outside Indiana.  
 32           (3) The distance between the Indiana court and the court in  
 33           the state that would assume jurisdiction.  
 34           (4) The relative financial circumstances of the parties.  
 35           (5) An agreement of the parties as to which state should  
 36           assume jurisdiction.  
 37           (6) The nature and location of the evidence required to resolve  
 38           the pending litigation, including the child's testimony.

1           (7) The ability of the court of each state to decide the issue  
2           expeditiously and the procedures necessary to present the  
3           evidence.

4           (8) The familiarity of the court of each state with the facts and  
5           issues in the pending litigation.

6           (c) If an Indiana court determines that it is an inconvenient  
7           forum and that a court of another state is a more appropriate  
8           forum, the Indiana court:

9           (1) shall stay the proceedings on condition that a child custody  
10          proceeding be promptly commenced in another designated  
11          state; and

12          (2) may impose any other condition the Indiana court  
13          considers just and proper.

14          (d) An Indiana court may decline to exercise its jurisdiction  
15          under this article if a child custody determination is incidental to  
16          an action for dissolution of marriage or another proceeding while  
17          still retaining jurisdiction over the dissolution of marriage or other  
18          proceeding.

19          Sec. 9. (a) Except as otherwise provided in section 4 of this  
20          chapter or by any other Indiana law, if an Indiana court has  
21          jurisdiction under this article because a person seeking to invoke  
22          its jurisdiction has engaged in unjustifiable conduct, the court shall  
23          decline to exercise its jurisdiction unless:

24          (1) the child's parents and any person acting as a parent have  
25          acquiesced in the exercise of jurisdiction;

26          (2) a court of the state otherwise having jurisdiction under  
27          sections 1 through 3 of this chapter determines that Indiana  
28          is a more appropriate forum under section 8 of this chapter;  
29          or

30          (3) no court of any other state would have jurisdiction under  
31          the criteria specified in sections 1 through 3 of this chapter.

32          (b) If an Indiana court declines to exercise its jurisdiction under  
33          subsection (a), the Indiana court may fashion an appropriate  
34          remedy to:

35          (1) ensure the safety of the child; and

36          (2) prevent a repetition of the unjustifiable conduct;

37          including staying the proceeding until a child custody proceeding  
38          is commenced in a court having jurisdiction under sections 1

1 through 3 of this chapter.

2 (c) If a court dismisses a petition or stays a proceeding because  
3 it declines to exercise its jurisdiction under subsection (a), the court  
4 shall assess against the party seeking to invoke its jurisdiction  
5 necessary and reasonable expenses, including:

6 (1) costs;

7 (2) communication expenses;

8 (3) attorney's fees;

9 (4) investigative fees;

10 (5) expenses for witnesses;

11 (6) travel expenses; and

12 (7) child care during the course of the proceedings;

13 unless the party from whom fees are sought establishes that the  
14 assessment would be clearly inappropriate. The court may not  
15 assess fees, costs, or expenses against the state unless authorized by  
16 law other than this article.

17 Sec. 10. (a) Subject to local law providing for the confidentiality  
18 of procedures, addresses, and other identifying information in a  
19 child custody proceeding, each party, in its first pleading or in an  
20 attached affidavit, shall provide information, under oath,  
21 regarding:

22 (1) the child's present address or whereabouts and the places  
23 where the child has lived during the immediately preceding  
24 five (5) years; and

25 (2) the names and present addresses of the persons with whom  
26 the child has lived during that period.

27 (b) The pleading or affidavit must state the following:

28 (1) Whether the party has participated, as a party or witness  
29 or in any other capacity, in any other proceeding concerning  
30 the custody of or visitation with the child and, if so, identify:

31 (A) the court;

32 (B) the case number; and

33 (C) the date of the child custody determination, if any.

34 (2) Whether the party knows of a proceeding that may affect  
35 the current proceeding, including proceedings for  
36 enforcement and proceedings relating to:

37 (A) domestic violence;

38 (B) protective orders;

- 1           (C) termination of parental rights; and  
 2           (D) adoptions;  
 3           and, if so, identify the court, the case number, and the nature  
 4           of the proceeding.  
 5           (3) Whether the party knows the names and addresses of a  
 6           person not a party to the proceeding who:  
 7                (A) has physical custody of the child; or  
 8                (B) claims rights of legal custody or physical custody of, or  
 9                visitation with, the child;  
 10           and, if so, the names and addresses of the persons.  
 11           (c) If the information required by subsection (a) is not  
 12           furnished, the court, on motion of a party or its own motion, may  
 13           stay the proceeding until the information is furnished.
- 14           Sec. 11. If the declaration as to any of the items described in  
 15           section 10(b)(1) through 10(b)(3) of this chapter is in the  
 16           affirmative, the party shall give additional information under oath  
 17           as required by the court. The court may examine the parties under  
 18           oath as to details of the information furnished and other matters  
 19           pertinent to:  
 20                (1) the court's jurisdiction; and  
 21                (2) the disposition of the case.
- 22           Sec. 12. Each party has a continuing duty to inform the court of  
 23           a proceeding in Indiana or any other state that may affect the  
 24           current proceeding.
- 25           Sec. 13. If a party alleges in an affidavit or a pleading under  
 26           oath that the health, safety, or liberty of a party or child would be  
 27           jeopardized by disclosure of identifying information, the  
 28           information must be sealed and may not be disclosed to the other  
 29           party or the public unless the court orders the disclosure to be  
 30           made after a hearing in which the court:  
 31                (1) takes into consideration the health, safety, or liberty of the  
 32                party or child; and  
 33                (2) determines that the disclosure is in the interest of justice.
- 34           Sec. 14. (a) In a child custody proceeding in Indiana, the court  
 35           may order a party to the proceeding who is in Indiana to appear  
 36           before the court in person with or without the child. The court may  
 37           order any person who:  
 38                (1) is in Indiana; and

1           (2) has physical custody or control of the child;  
2 to appear in person with the child.

3           (b) If a party to a child custody proceeding whose presence is  
4 desired by the court is outside Indiana, the court may order that a  
5 notice given under IC 31-21-3-3 include a statement:

6               (1) directing the party to appear in person with or without the  
7 child; and

8               (2) informing the party that failure to appear may result in a  
9 decision adverse to the party.

10          (c) The court may enter an order necessary to ensure the safety  
11 of:

12               (1) the child; and

13               (2) any person ordered to appear under this section.

14          (d) If a party to a child custody proceeding who is outside  
15 Indiana:

16               (1) is directed to appear under subsection (b); or

17               (2) desires to appear personally before the court with or  
18 without the child;

19 the court may require another party to pay reasonable and  
20 necessary travel and other expenses of the party who appears and  
21 of the child.

## 22           Chapter 6. Enforcement

23           Sec. 1. Under this chapter, an Indiana court may enforce an  
24 order for the return of the child made under the Hague Convention  
25 on the Civil Aspects of International Child Abduction as if it were  
26 a child custody determination.

27           Sec. 2. (a) An Indiana court shall recognize and enforce a child  
28 custody determination of a court of another state if the court of  
29 another state exercised jurisdiction in substantial conformity with  
30 this article or the determination:

31               (1) was made under factual circumstances meeting the  
32 jurisdictional standards of this article; and

33               (2) has not been modified in accordance with this article.

34           (b) An Indiana court may use a remedy available under any  
35 other Indiana law to enforce a child custody determination made  
36 by a court of another state. The remedies provided in this article:

37               (1) are cumulative; and

38               (2) do not affect the availability of other remedies to enforce

1           a child custody determination.

2           **Sec. 3. (a) An Indiana court that does not have jurisdiction to**  
 3 **modify a child custody determination may issue a temporary order**  
 4 **enforcing:**

5           (1) a visitation schedule made by a court of another state; or  
 6           (2) the visitation provisions of a child custody determination  
 7           of another state that does not provide for a specific visitation  
 8           schedule.

9           **(b) If an Indiana court makes an order under subsection (a)(2),**  
 10 **the Indiana court shall specify in the order a period that it**  
 11 **considers adequate to allow the petitioner to obtain an order from**  
 12 **a court having jurisdiction under the criteria specified in**  
 13 **IC 31-21-5. The order remains in effect until:**

14           (1) an order is obtained from the court having jurisdiction; or  
 15           (2) the period expires.

16           **Sec. 4. (a) A child custody determination issued by a court of**  
 17 **another state may be registered in Indiana, with or without a**  
 18 **simultaneous request for enforcement, by sending the following to**  
 19 **the appropriate Indiana court:**

20           (1) A letter or other document requesting registration.  
 21           (2) Two (2) copies, including one (1) certified copy, of the  
 22           determination sought to be registered and a statement under  
 23           penalty of perjury that to the best of the knowledge and belief  
 24           of the person seeking registration the order has not been  
 25           modified.

26           (3) Except as otherwise provided in section 13 of this chapter:  
 27           (A) the name and address of the person seeking  
 28           registration; and  
 29           (B) the name of a parent or person acting as a parent who  
 30           has been awarded custody or visitation in the child custody  
 31           determination sought to be registered.

32           **(b) On receipt of the documents required by subsection (a), the**  
 33 **registering court shall:**

34           (1) cause the determination to be filed as a foreign judgment,  
 35           together with one (1) copy of the accompanying documents  
 36           and information, regardless of their form; and  
 37           (2) serve notice on each person named under subsection (a)(3)  
 38           and provide the person with an opportunity to contest the



1 registration in accordance with this section.

2 (c) The notice required by subsection (b)(2) must state the  
3 following:

4 (1) A registered determination is enforceable as of the date of  
5 the registration in the same manner as a child custody  
6 determination issued by an Indiana court.

7 (2) A hearing to contest the validity of the registered  
8 determination must be requested not more than twenty (20)  
9 days after service of notice.

10 (3) Failure to contest the registration shall:

11 (A) result in confirmation of the child custody  
12 determination; and

13 (B) preclude further contest of that determination with  
14 respect to a matter that may have otherwise been asserted.

15 Sec. 5. (a) A person seeking to contest the validity of a registered  
16 order must request a hearing not more than twenty (20) days after  
17 service of the notice. At the hearing, the court shall confirm the  
18 registered order unless the person contesting the registration  
19 establishes that:

20 (1) the issuing court did not have jurisdiction under  
21 IC 31-21-5;

22 (2) the child custody determination sought to be registered has  
23 been:

24 (A) vacated;

25 (B) stayed; or

26 (C) modified;

27 by a court having jurisdiction to do so under IC 31-21-5; or

28 (3) the person contesting registration was entitled to notice,  
29 but notice was not given in accordance with the standards of  
30 IC 31-21-3-3 in the proceedings before the court that issued  
31 the order for which registration is sought.

32 (b) If a timely request for a hearing to contest the validity of the  
33 registration is not made:

34 (1) the registration is confirmed as a matter of law; and

35 (2) the person requesting registration and each person served  
36 must be notified of the confirmation.

37 (c) Confirmation of a registered order whether:

38 (1) by operation of law; or

(2) after notice and hearing;  
precludes further contest of the order with respect to a matter that  
may have been asserted at the time of registration.

Sec. 6. (a) An Indiana court may grant a relief normally  
available under Indiana law to enforce a registered child custody  
determination made by a court of another state.

(b) An Indiana court shall recognize and enforce, but may not  
modify, except in accordance with IC 31-21-5, a registered child  
custody determination of a court of another state.

Sec. 7. If a proceeding for enforcement under this article is  
commenced in an Indiana court and the court determines that a  
proceeding to modify the determination is pending in a court of  
another state having jurisdiction to modify the determination  
under IC 31-21-5, the enforcing court shall immediately  
communicate with the modifying court. The proceeding for  
enforcement continues unless the enforcing court, after  
consultation with the modifying court, stays or dismisses the  
proceeding.

Sec. 8. (a) A petition under this article must be verified.  
Certified copies of:

(1) the orders sought to be enforced; and  
(2) an order confirming registration;  
must be attached to the petition. A copy of a certified copy of an  
order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination  
must state the following:

(1) Whether the court that issued the determination identified  
the jurisdictional basis it relied on in exercising jurisdiction  
and, if so, what the basis was.

(2) Whether the determination for which enforcement is  
sought has been vacated, stayed, or modified by a court whose  
decision must be enforced under this article and, if so,  
identify:

(A) the court;

(B) the case number; and

(C) the nature of the proceeding.

(3) Whether a proceeding has been commenced that may  
affect the current proceeding, including proceedings relating

- 1 to:
- 2 (A) domestic violence;
- 3 (B) protective orders;
- 4 (C) termination of parental rights; and
- 5 (D) adoptions;
- 6 and, if so, identify the court, the case number, and the nature
- 7 of the proceeding.
- 8 (4) The present physical address of the child and the
- 9 respondent, if known.
- 10 (5) Whether relief in addition to the immediate physical
- 11 custody of the child and attorney's fees is sought, including a
- 12 request for assistance from law enforcement officials and, if
- 13 so, the relief sought.
- 14 (6) If the child custody determination has been registered and
- 15 confirmed under sections 4 and 5 of this chapter, the date and
- 16 place of registration.
- 17 **Sec. 9. (a) On the filing of a petition, the court:**
- 18 (1) shall issue an order directing the respondent to appear in
- 19 person with or without the child at a hearing; and
- 20 (2) may enter an order necessary to ensure the safety of the
- 21 parties and the child.
- 22 The hearing must be held on the next judicial day after service of
- 23 the order unless holding the hearing on that date is impossible. In
- 24 that event, the court shall hold the hearing on the first judicial day
- 25 possible. The court may extend the date of hearing at the request
- 26 of the petitioner.
- 27 (b) An order issued under subsection (a) must state the time and
- 28 place of the hearing and advise the respondent that at the hearing
- 29 the court will order that the petitioner may take immediate
- 30 physical custody of the child and the payment of fees, costs, and
- 31 expenses under section 15 of this chapter and may schedule a
- 32 hearing to determine whether further relief is appropriate unless
- 33 the respondent appears and establishes that:
- 34 (1) the child custody determination has not been registered
- 35 and confirmed under sections 4 and 5 of this chapter and that:
- 36 (A) the issuing court did not have jurisdiction under
- 37 IC 31-21-5;
- 38 (B) the child custody determination for which enforcement

1 is sought has been vacated, stayed, or modified by a court  
2 having jurisdiction under IC 31-21-5; or

3 (C) the respondent was entitled to notice, but notice was  
4 not given in accordance with the standards of IC 31-21-3-3  
5 in the proceedings before the court that issued the order  
6 for which enforcement is sought; or

7 (2) the child custody determination for which enforcement is  
8 sought was registered and confirmed under sections 4 and 5  
9 of this chapter but has been vacated, stayed, or modified by a  
10 court of a state having jurisdiction under IC 31-21-5.

11 **Sec. 10.** Except as otherwise provided in section 13 or 14 of this  
12 chapter, the petition and order must be served, by a method  
13 authorized by Indiana law, on the respondent and any person who  
14 has physical custody of the child.

15 **Sec. 11.** Unless the court issues a temporary emergency order  
16 under IC 31-21-5-4 on a finding that a petitioner is entitled to  
17 immediate physical custody of the child, the court shall order that  
18 the petitioner may take immediate physical custody of the child  
19 unless the respondent establishes that:

20 (1) the child custody determination has not been registered  
21 and confirmed under sections 4 and 5 of this chapter and that:

22 (A) the issuing court did not have jurisdiction under  
23 IC 31-21-5;

24 (B) the child custody determination for which enforcement  
25 is sought has been vacated, stayed, or modified by a court  
26 of a state having jurisdiction to do so under IC 31-21-5; or

27 (C) the respondent was entitled to notice, but notice was  
28 not given in accordance with the standards of IC 31-21-3-3  
29 in the proceedings before the court that issued the order  
30 for which enforcement is sought; or

31 (2) the child custody determination for which enforcement is  
32 sought was registered and confirmed under sections 4 and 5  
33 of this chapter but has been vacated, stayed, or modified by a  
34 court of a state having jurisdiction under IC 31-21-5.

35 **Sec. 12. (a)** The court:

36 (1) shall award the fees, costs, and expenses authorized under  
37 section 15 of this chapter; and

38 (2) may grant additional relief, including a request for the

1 assistance of law enforcement officials, and set a hearing to  
2 determine whether additional relief is appropriate.

3 (b) If a party called to testify refuses to answer on the ground  
4 that the testimony may be self-incriminating, the court may draw  
5 an adverse inference from the refusal.

6 (c) A privilege against disclosure of communications between  
7 spouses and a defense of immunity based on the relationship of  
8 husband and wife or parent and child may not be invoked in a  
9 proceeding under this chapter.

10 Sec. 13. (a) On the filing of a petition seeking enforcement of a  
11 child custody determination, the petitioner may file a verified  
12 application for the issuance of a warrant to take physical custody  
13 of the child if the child is immediately likely to:

14 (1) suffer serious physical harm; or

15 (2) be removed from Indiana.

16 (b) If the court, on the testimony of the petitioner or other  
17 witness, finds that the child is imminently likely to suffer serious  
18 physical harm or be removed from Indiana, the court may issue a  
19 warrant to take physical custody of the child. The petition must be  
20 heard on the next judicial day after the warrant is executed unless  
21 hearing the petition on that date is impossible. In that event, the  
22 court shall hold the hearing on the first judicial day possible. The  
23 application for the warrant must include the statements required  
24 by section 8(b) of this chapter.

25 Sec. 14. (a) A warrant to take physical custody of a child must:

26 (1) recite the facts on which a conclusion of imminent serious  
27 physical harm or removal from the jurisdiction is based;

28 (2) direct law enforcement officers to take physical custody of  
29 the child immediately; and

30 (3) provide for the placement of the child pending final relief.

31 (b) The respondent must be served with the petition, warrant,  
32 and order immediately after the child is taken into physical  
33 custody.

34 (c) A warrant to take physical custody of a child is enforceable  
35 throughout Indiana. If the court finds on the basis of the testimony  
36 of the petitioner or other witness that a less intrusive remedy is not  
37 effective, the court may authorize law enforcement officers to enter  
38 private property to take physical custody of the child. If required

1 by exigent circumstances of the case, the court may authorize law  
2 enforcement officers to make a forcible entry at any hour.

3 (d) The court may impose conditions on the placement of a child  
4 to ensure the appearance of the child and the child's custodian.

5 Sec. 15. (a) The court shall award the prevailing party, including  
6 a state, necessary and reasonable expenses incurred by or on behalf  
7 of the party, including:

8 (1) costs;

9 (2) communication expenses;

10 (3) attorney's fees;

11 (4) investigative fees;

12 (5) expenses for witnesses;

13 (6) travel expenses; and

14 (7) child care during the course of the proceedings;

15 unless the party from whom fees or expenses are sought establishes  
16 that the award would be clearly inappropriate.

17 (b) The court may not assess fees, costs, or expenses against a  
18 state unless authorized by law other than this article.

19 Sec. 16. An Indiana court shall accord full faith and credit to an  
20 order issued by another state and consistent with this article that  
21 enforces a child custody determination by a court of another state  
22 unless the order has been vacated, stayed, or modified by a court  
23 having jurisdiction under IC 31-21-5.

24 Sec. 17. An appeal may be taken from a final order in a  
25 proceeding under this article in accordance with expedited  
26 appellate procedures in other civil cases. Unless the court enters a  
27 temporary emergency order under IC 31-21-5-4, the enforcing  
28 court may not stay an order enforcing a child custody  
29 determination pending appeal.

30 Sec. 18. (a) In a case arising under this article or involving the  
31 Hague Convention on the Civil Aspects of International Child  
32 Abduction, a prosecuting attorney or other appropriate public  
33 official may take a lawful action, including resorting to a  
34 proceeding under this article or any other available civil  
35 proceeding, to locate a child, obtain the return of a child, or  
36 enforce a child custody determination if there is:

37 (1) an existing child custody determination;

38 (2) a request to do so from a court in a pending child custody

proceeding;

(3) a reasonable belief that a criminal statute has been violated; or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A prosecuting attorney or other appropriate public official acting under this section acts on behalf of the court and may not represent a party.

**Sec. 19.** At the request of a prosecuting attorney or other appropriate public official acting under section 18 of this chapter, a law enforcement officer may:

(1) take a lawful action reasonably necessary to locate a child or a party; and

(2) assist a prosecuting attorney or appropriate public official with responsibilities under section 18 of this chapter.

**Sec. 20.** If the respondent is not the prevailing party, the court may assess against the respondent the direct expenses and costs incurred by the prosecuting attorney or other appropriate public official and law enforcement officers under section 18 or 19 of this chapter.

#### **Chapter 7. Miscellaneous Provisions**

**Sec. 1.** In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec. 2.** If a provision of this article or its application to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

**Sec. 3.** A motion or other request for relief made:

(1) in a child custody proceeding; or

(2) to enforce a child custody determination;

that was commenced before July 1, 2007, is governed by the law in effect at the time the motion or other request was made."

Page 34, line 28, delete "IC 31-25-4-19.5," and insert "**section 19.5 of this chapter**,".

Page 42, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 70. IC 34-26-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders;

(iii) no contact orders under IC 31 and IC 35; and

(iv) forms relating to workplace violence restraining orders under IC 34-26-6;

(C) a confidential form;

(D) a notice of modification or extension for an order for protection, a no contact order, or a workplace violence restraining order;

(E) a notice of termination for an order for protection, a no contact order, or a workplace violence restraining order; and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, or a workplace violence restraining order:

**VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.**

**IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.**

**PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT**



1 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE  
 2 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT  
 3 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),  
 4 ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS  
 5 ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A  
 6 FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR  
 7 POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF  
 8 THE PROTECTED PERSON IS:

9 (A) THE RESPONDENT'S CURRENT OR FORMER  
 10 SPOUSE;

11 (B) A CURRENT OR FORMER PERSON WITH WHOM  
 12 THE RESPONDENT RESIDED WHILE IN AN INTIMATE  
 13 RELATIONSHIP; OR

14 (C) A PERSON WITH WHOM THE RESPONDENT HAS A  
 15 CHILD.

16 INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT  
 17 THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES  
 18 UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

19 (d) The clerk of the circuit court, or a person or entity designated by  
 20 the clerk of the circuit court, shall provide to a person requesting an  
 21 order for protection:

22 (1) the forms adopted under subsection (a);

23 (2) all other forms required to petition for an order for protection,  
 24 including forms:

25 (A) necessary for service; and

26 (B) required under **IC 31-21 (or IC 31-17-3 before its**  
 27 **repeal)**; and

28 (3) clerical assistance in reading or completing the forms and  
 29 filing the petition.

30 Clerical assistance provided by the clerk or court personnel under this  
 31 section does not constitute the practice of law. The clerk of the circuit  
 32 court may enter into a contract with a person or another entity to  
 33 provide this assistance. A person, other than a person or other entity  
 34 with whom the clerk has entered into a contract to provide assistance,  
 35 who in good faith performs the duties the person is required to perform  
 36 under this subsection is not liable for civil damages that might  
 37 otherwise be imposed on the person as a result of the performance of  
 38 those duties unless the person commits an act or omission that amounts

- 1 to gross negligence or willful and wanton misconduct.
- 2 (e) A petition for an order for protection must be:
- 3 (1) verified or under oath under Trial Rule 11; and
- 4 (2) issued on the forms adopted under subsection (a).
- 5 (f) If an order for protection is issued under this chapter, the clerk
- 6 shall comply with IC 5-2-9."
- 7 Page 42, line 16, after "2007]:" insert "IC 31-9-2-23; IC 31-9-2-32;
- 8 IC 31-9-2-33; IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59;
- 9 IC 31-9-2-81;".
- 10 Page 42, line 20, delete "." and insert " ; IC 31-17-3."
- 11 Renumber all SECTIONS consecutively.
- (Reference is to SB 329 as printed February 23, 2007.)

**and when so amended that said bill do pass.**

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Representative Hoy